

2005 WISCONSIN ACT 25 (2005-2007 BIENNIAL BUDGET ACT)
Generally Effective on July 27, 2005

CIRCUIT COURTS

1. INTERPRETER REIMBURSEMENT

	FY 2005–2006	FY 2006–2007
REQUEST	\$403,600	\$536,900
GOVERNOR	\$403,600	\$536,900
JOINT FINANCE	\$111,900*	\$138,900
LEGISLATURE	\$111,900*	\$138,900

*Excludes \$89,400 in Joint Finance Committee reserve

Request: Provide \$403,600 in 2005-2006 and \$536,900 in 2006-2007 for increased interpreter reimbursement funding for counties as follows: (1) \$237,100 in 2005-2006 and \$299,800 in 2006-2007 for projected increased use of interpreters under current law; (2) \$90,200 in 2005-2006 and \$128,400 in 2006-2007 to reimburse counties for interpreters in all types of cases; and (3) \$76,300 in 2005-2006 and \$108,700 in 2006-2007 to reimburse counties for interpreters provided without regard to indigence. Further, modify the interpreter statutes to require that interpreters be appointed in all cases regardless of indigence, and to authorize state reimbursement to counties for interpreters provided to non-indigent parties.

2001 Act 16 authorized an interpreter certification program and increased the rate of state reimbursement from \$35 per half day to \$30 per hour for uncertified interpreters and \$40 per hour for interpreters certified by the Wisconsin Supreme Court to better reflect actual hourly costs to counties of interpreter services. Funding for reimbursement in 2004-2005 totals \$688,200. Based on the growth in the state's population of persons with limited English proficiency over the last ten years, a 7.5% increase in funding is requested each year to reflect projected increased use of interpreters under current law (\$51,600 in 2005-2006 and \$107,000 in 2006-2007).

While 2001 Act 16 required the Supreme Court to establish policies and procedures for the recruitment, training and certification of court interpreters, the first group of certified interpreters were sworn in on May 25, 2004 and a second group of certified interpreters were sworn in on August 30, 2004. Because the reimbursement rate to counties increases by 33% for certified interpreters, additional funding is requested each year (\$185,500 in 2005-2006 and \$192,700 in 2006-2007) related to higher reimbursement rates for certified interpreters.

In addition, it is requested that s. 885.38, Wis. Stats., be amended to: (1) require the use of foreign language interpreters in all cases, including civil and family; (2) require that foreign language interpreters be appointed regardless of indigence; and (3) authorize reimbursement to counties for interpreters provided to non-indigent parties.

Under current law, if the court appoints and the party is indigent, interpreter costs for all types of cases are eligible for reimbursement. However, state law does not require the court to appoint in cases other than criminal, juvenile, children's code and mental health proceedings. As determined by a survey of selected counties, practices differ among counties regarding appointment in non-mandated cases. It is estimated that expanding the requirement to non-mandated cases would increase interpreter use by 13%, and \$90,200 is requested in 2005-2006 and \$128,400 in 2006-2007 for these additional cases.

Counties are currently incurring interpreter costs for non-indigents in mandated cases; however, the non-indigent rates vary among counties. It is estimated that providing county reimbursement for non-indigents

would increase interpreter payments by 11%, and \$76,300 in 2005-2006 and \$108,700 in 2006-2007 is requested.

This request is necessary to meet the Supreme Court's statewide responsibility to provide equal access to the courts, comply with federal requirements, equalize costs and services across the state, and remove economic disincentives to use interpreters when needed.

Governor: Approve request.

Joint Finance/Legislature: Delete the statutory modifications to require expanded use of interpreters and the related funding. Provide funding for projected increased use and cost of interpreters under current law as follows: (a) provide \$147,700 in 2005-2006 and \$138,900 in 2006-2007; (b) delete \$35,800 in 2005-2006 and \$71,500 in 2006-2007 to reflect a transfer of funding to the Supreme Court to fund the court interpreter manager position; and (c) provide \$89,400 in 2005-2006 to the Joint Committee on Finance's supplemental appropriation, reserved for release for court interpreter reimbursement if requested by the Court under s. 13.101, Wis. Stats., to address any shortfall.

2. BUDGET EFFICIENCY MEASURES

	FY 2005 – 2006	FY 2006 – 2007
GOVERNOR	SEE NOTE	SEE NOTE
JOINT FINANCE	SEE NOTE	SEE NOTE
LEGISLATURE	SEE NOTE	SEE NOTE

Governor/Joint Finance/Legislature: Require the Chief Justice of the Supreme Court, acting as the administrative head of the justice system, to take actions during the 2005-2007 fiscal biennium to ensure that from general purpose revenue appropriations for state operations to the Circuit Courts, the Court of Appeals and the Supreme Court an amount equal to \$1,300,000 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other types of appropriations, or both. The language in the bill provides the Chief Justice with the discretion to manage the lapse requirements from any of the specified appropriations that includes the Circuit Courts sum sufficient appropriation.

3. ACROSS-THE-BOARD BUDGET REDUCTIONS

	FY 2005–2006	FY 2006–2007
LEGISLATURE	-\$1,307,800*	-\$1,327,700*
GOVERNOR'S VETO	SEE NOTE	SEE NOTE

*Equal amount placed in Joint Finance Committee reserve

Legislature: Reduce funding annually for the Circuit Courts by 2.3 percent of its state operations funding, which equals \$1,307,800 in 2005-06 and \$1,327,700 in 2006-07. Place an equal amount in the Legislature's Joint Committee on Finance appropriation for supplements to state agencies, and provide that the Circuit Courts may submit requests to the Joint Finance Committee for transfer of funds back to the Circuit Courts.

Governor's Veto: Authorize the Secretary of the Department of Administration (DOA) to transfer from the Joint Committee on Finance to the Circuit Courts funding not to exceed the amounts specified above. Because the amounts deleted from some state agencies' appropriations were greater than the amounts placed in Joint Finance, direct the Secretary of DOA to apportion, as quickly as possible, the remaining \$4 million reduction in a manner that minimizes the impact on critical services to Wisconsin citizens.

COURT OF APPEALS

1. BUDGET EFFICIENCY MEASURES

	FY 2005 – 2006	FY 2006 – 2007
GOVERNOR	SEE NOTE	SEE NOTE
JOINT FINANCE	SEE NOTE	SEE NOTE

Governor/Joint Finance: Require the Chief Justice of the Supreme Court, acting as the administrative head of the justice system, to take actions during the 2005-2007 fiscal biennium to ensure that from general purpose revenue appropriations for state operations to the Circuit Courts, the Court of Appeals and the Supreme Court an amount equal to \$1,300,000 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other types of appropriations, or both. The language in the bill provides the Chief Justice with the discretion to manage the lapse requirements from any of the specified appropriations that includes the Court of Appeals sum sufficient appropriation.

2. ACROSS-THE-BOARD BUDGET REDUCTIONS

	FY 2005–2006	FY 2006–2007
LEGISLATURE	-\$195,900*	-\$198,900*
GOVERNOR'S VETO	SEE NOTE	SEE NOTE

*Equal amount placed in Joint Finance Committee reserve

Legislature: Reduce funding annually for the Court of Appeals by 2.3 percent of its state operations funding, which equals \$195,900 in 2005-06 and \$198,900 in 2006-07. Place an equal amount in the Legislature's Joint Committee on Finance appropriation for supplements to state agencies, and provide that the Court of Appeals may submit requests to the Joint Finance Committee for transfer of funds back to the Court of Appeals.

Governor's Veto: Authorize the Secretary of the Department of Administration to transfer from the Joint Committee on Finance to the Court of Appeals funding not to exceed the amounts specified above. Because the amounts deleted from some state agencies' appropriations were greater than the amounts placed in Joint Finance, direct the Secretary of DOA to apportion, as quickly as possible, the remaining \$4 million reduction in a manner that minimizes the impact on critical services to Wisconsin citizens.

SUPREME COURT AND DEPARTMENTS

1. BUDGET EFFICIENCY MEASURES

	FY 2005 – 2006	FY 2006 – 2007
GOVERNOR	SEE NOTE	SEE NOTE
JOINT FINANCE	SEE NOTE	SEE NOTE
LEGISLATURE	SEE NOTE	SEE NOTE

Governor/Joint Finance/Legislature: Require the Chief Justice of the Supreme Court, acting as the administrative head of the justice system, to take actions during the 2005-2007 fiscal biennium to ensure that from general purpose revenue appropriations for state operations to the Circuit Courts, the Court of Appeals and the Supreme Court an amount equal to \$1,300,000 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other types of appropriations, or both. The language in the bill provides the Chief Justice with the discretion to manage the lapse requirements from any of the specified appropriations: the Supreme Court sum sufficient appropriation, Director of State Courts sum certain appropriation, and the State Law Library sum certain appropriation.

2. INTERPRETERS: TRAINING, CERTIFICATION AND DOCUMENT TRANSLATION

	FY 2005-2006	FY 2006-2007
REQUEST	\$65,100; 1.0 FTE	\$121,900; 1.0 FTE
GOVERNOR	\$47,500; 1.0 FTE	\$104,300; 1.0 FTE
JOINT FINANCE	\$47,500; 1.0 FTE	\$104,300; 1.0 FTE
LEGISLATURE	\$47,500; 1.0 FTE	\$104,300; 1.0 FTE

Request: Provide \$65,100 in 2005-2006 and \$121,900 in 2006-2007 and 1.0 FTE position for: (1) a court interpreter program manager to run the interpreter certification, education and training program (\$35,800 GPR in 2005-2006 and \$71,500 GPR in 2006-2007 for the Office of Court Operations); (2) training, testing and certification of court interpreters (\$8,600 GPR and \$18,300 PR in 2005-2006 and \$12,800 GPR and \$32,800 PR in 2006-2007); and (3) translation of key court documents into foreign languages (\$2,400 GPR in 2005-2006 and \$4,800 in 2006-2007).

The court interpreter program manager would continue the training, testing and certification program established with one-time federal grant funding that will end December 31, 2005. This request would cover six months of funding in 2005-2006 and 12 months in 2006-2007. The interpreter program is staff-intensive: administering the training, testing and certification processes; writing curriculum; finding qualified faculty; and maintaining certification and mailing lists and rosters. At least 16 other states have one or more positions in their Court administrative offices dedicated to court interpreter issues. For example, the Minnesota Court Interpreter Program has four full-time and one part-time positions.

The training and testing program has four components: (1) statewide interpreter training programs covering court terminology and procedure, ethics, and interpreting skills; (2) certification testing to determine skill levels so judges can make appointments based on reliable information; (3) maintenance of a statewide interpreter roster of interpreter names, phone numbers, languages, and qualifications, to assist courts in locating and appointing interpreters; and (4) education for judges, court staff, and attorneys on best practices for

appointing and using interpreters in court and communicating with speakers of limited English proficiency. The training, testing and certification program follows a model developed by the National Center for State Courts that has been successfully implemented in Wisconsin and other states.

2003 Act 33 created a continuing program revenue appropriation to allow the interpreters who take the classes and tests to partially support the costs of the programs by charging fees for the training programs and testing. Fees ranging from \$25 for written testing to \$175 for advanced language training fee are estimated to generate \$18,300 in 2005-2006 and \$32,800 in 2006-2007, which are requested to be used to offset program costs.

Finally, \$2,400 in 2005-2006 and \$4,800 in 2006-07 is requested for translation of vital court forms and documents as well as courthouse signs in multiple languages advising people how to request an interpreter. Funding is needed on an ongoing basis since forms and documents require continual revision to reflect law changes.

Governor: Approve the request, with the following modifications: (1) delete \$17,600 PR annually to correct a technical error; and (2) convert the GPR funding requested for interpreter training to PR (\$8,600 in 2005-2006 and \$12,800 in 2006-2007). The effect of converting the general purpose revenue to program revenue would mean that fees for interpreter training programs might have to be increased. With the above changes, support for the interpreter certification, education and training program would be as follows: (a) \$35,800 GPR in 2005-2006, \$71,500 GPR in 2006-2007 and 1.0 FTE GPR permanent position each year to replace one time federal funding and position authority for the court interpreter program manager; (b) \$2,400 GPR in 2005-2006 and \$4,800 GPR in 2006-2007 for document translation; and (c) \$9,300 PR in 2005-2006 and \$28,000 PR in 2006-2007 for interpreter training and certification supplies and services.

Joint Finance/Legislature: Approve request, except delete funding for the court interpreter manager position (\$35,800 in 2005-06 and \$71,500 in 2006-07) and instead fund the position from an equivalent amount transferred from the Circuit Court appropriation for court interpreter reimbursement.

3. ACROSS-THE-BOARD BUDGET REDUCTIONS

	FY 2005–2006	FY 2006–2007
LEGISLATURE	-\$282,500*	-\$287,700*
GOVERNOR'S VETO	SEE NOTE	SEE NOTE

*Equal amount placed in Joint Finance Committee reserve

Legislature: Reduce funding annually for the Director of State Courts by \$282,500 in 2006-07 and \$287,700 in 2006-07. As the largest Supreme Court appropriation, the reduction to the Director of State Courts includes not only a 2.3 percent reduction to the Director's Office, but also includes the equivalent of 2.3 percent reductions to the Supreme Court and Wisconsin State Law Library. Place an equal amount in the Legislature's Joint Committee on Finance appropriation for supplements to state agencies, and provide that the Supreme Court may submit requests to the Joint Finance Committee for transfer of funds back to the Director of State Courts.

Governor's Veto: Authorize the Secretary of the Department of Administration to transfer from the Joint Committee on Finance to the Director of State Courts funding not to exceed the amounts specified above. Because the amounts deleted from some state agencies' appropriations were greater than the amounts placed in Joint Finance, direct the Secretary of DOA to apportion, as quickly as possible, the remaining \$4 million reduction in a manner that minimizes the impact on critical services to Wisconsin citizens.

SURCHARGES COLLECTED BY THE CLERKS OF CIRCUIT COURT

1. JUSTICE INFORMATION SYSTEM SURCHARGE INCREASE

Governor/Joint Finance/Legislature: Increase the justice information system surcharge from \$9 to \$12, with the additional \$3 going to the Department of Administration (DOA) for district attorney information systems. Under current law, \$2 of the \$9 surcharge is allocated to DOA for district attorney information systems, \$6 is allocated to CCAP, and \$1 is deposited to the state's general fund. The surcharge is assessed whenever a fee is assessed for: (a) civil, small claims, wage earner or garnishment actions (with certain exceptions); (b) an appeal from municipal court; (c) a third party complaint in a civil action; (d) filing a counterclaim or cross complaint in a small claims action; and (e) forfeitures, excluding actions for safety belt violations or first-time violations for operating a motor vehicle, all-terrain vehicle, motorboat or snowmobile if the operator had a blood alcohol concentration of 0.08 or more but less than 0.1. The Governor and the LFB estimate this increase will generate additional revenues of \$1.0 million in 2005-06 and \$2.1 million in 2006-07.

2. PENALTY SURCHARGE INCREASE

Governor: Increase the penalty surcharge from 24% to 25% of the total fine or forfeiture imposed for violations of state law or municipal or county ordinances, excluding non-moving traffic violations, public smoking violations, safety belt violations or first-time violations for operating a motor vehicle, all-terrain vehicle, motorboat or snowmobile if the operator had a blood alcohol concentration of 0.08 or more but less than 0.1. The LFB reports the Governor estimates this surcharge increase would generate additional revenues of \$370,900 in 2005-06 and \$752,900 in 2006-07, to be used to cover a projected shortfall in revenues needed to fund certain justice-related programs.

Joint Finance/Legislature: Approve the surcharge increase. The LFB estimates this increase will generate additional revenues of \$584,000 in 2005-06 and \$797,700 in 2006-07. Delete the penalty surcharge receipts appropriation under Office of Justice Assistance (OJA) and provide that all penalty surcharge receipts would be credited to and distributed from the existing DOJ penalty surcharge receipts appropriation.

3. CRIME VICTIM AND WITNESS ASSISTANCE SURCHARGE INCREASE

Governor: Increase "Part A" of the crime victim and witness assistance surcharge from the current \$30 for each misdemeanor and \$50 for each felony to \$40 for each misdemeanor and \$65 for each felony, to first apply to surcharges imposed on the effective date of the bill. [Note this effective date may be considered an *ex post facto* law in violation of the state Constitution. Surcharge modifications typically are applied to crimes committed on or after a law's effective date.] The LFB reports the Governor estimates this increase will generate additional revenues of \$360,000 in 2005-06 and \$848,800 in 2006-07. The revenue (estimated at \$640,000 in 2006-07) would be used to offset reductions in county crime victim and witness assistance payments due to federal Byrne funding decreases and to cover a deficit in program revenues.

Joint Finance/Legislature: Approve the surcharge increase. The LFB estimates this increase will generate additional revenues of \$212,300 in 2005-06 and \$424,600 in 2006-07. Further, expand the application of the crime victim and witness surcharge to provide that if a complaint is issued charging a person with a crime for an offense that could subject the person to a civil forfeiture or to prosecution for a crime, the prosecutor decides to defer or suspend the criminal prosecution, and as a result the person agrees to pay a civil forfeiture, the court would also be required to impose a crime victim witness assistance surcharge in addition to imposing a forfeiture. The amount of the surcharge would be based on whether the criminal complaint charged the individual with a felony or misdemeanor violation. The LFB could not determine the revenue effect of this expansion in application.

4. CRIME LABORATORIES AND DRUG LAW ENFORCEMENT SURCHARGE INCREASE

Governor: Increase the crime laboratories and drug law enforcement surcharge from \$7 to \$8, which is imposed when a court imposes a sentence, places a person on probation, or imposes a forfeiture for a violation of state law or municipal or county ordinance, excluding non-moving traffic violations, public smoking violations, safety belt violations or first-time violations for operating a motor vehicle, all-terrain vehicle, motorboat or snowmobile if the operator had a blood alcohol concentration of 0.08 or more but less than 0.1. The LFB reports the Governor estimates this increase will generate additional revenues of \$1,046,300 in 2006-07.

Provide that the unencumbered balances in accounts funded by the surcharge lapse to the general fund on June 30 of each fiscal year. The LFB reports the Governor estimates this lapse requirement will increase general fund revenues by \$400,000 in 2005-06 and \$1,300,000 in 2006-07. The effect of this surcharge increase, therefore, is to increase revenues to the general fund.

Joint Finance/Legislature: Approve the surcharge increase. Modify the lapse requirement to provide that only unencumbered revenues in excess of \$175,000 in accounts funded by the surcharge lapse to the general fund on June 30 of each fiscal year, and provide that the lapse requirement apply only to the 2005-2007 biennium. The LFB estimates this lapse requirement will increase general fund revenues by \$818,600 in 2005-06 and \$1,091,500 in 2006-07. The effect of this surcharge increase, therefore, is to increase revenues to the general fund, not provide additional funding to crime laboratories and drug law enforcement programs.

Governor's Veto: Require all unencumbered revenues in surcharge accounts on June 30 of 2006 and 2007 lapse to the general fund. The intent of this veto, as stated in the Governor's veto message, is to provide over the biennium an additional \$350,000 from surcharge revenues to the General Fund.

5. DRUG ABUSE PROGRAM IMPROVEMENT SURCHARGE INCREASE

Joint Finance/Legislature: Increase the drug abuse program improvement surcharge from 50% of the fine and penalty surcharge imposed to 75%, and provide that one-third of the drug abuse program improvement surcharge revenue be used to fund the county alcohol and other drug abuse grant program described below in item 8 under "Other Provisions." The drug abuse program improvement surcharge is assessed for Chapter 961 (Uniform Controlled Substances Act) convictions. The LFB estimates this change will increase revenues by \$490,000 in 2006-07.

6. NEW DRUG OFFENDER DIVERSION SURCHARGE

Joint Finance/Legislature: Create a new \$10 drug offender diversion surcharge, to be assessed for property crime convictions under Chapter 943 (Crimes—Property) of the statutes. Provide that the revenue generated from this surcharge be used to fund the county alcohol and other drug abuse grant program described below in item 8 under "Other Provisions." The LFB estimates this new surcharge will generate revenues of \$265,000 in 2006-07. Provide that surcharge revenue be used for reasonable support of an inmate's family or dependents before it is allocated for the grant program.